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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[18 March 1998]

GE.98-11157 (E)

1. The International Federation of Human Rights Leagues (FIDH) and its affiliate, the Tunisian Human Rights League, remain very concerned about the deterioration of the human rights situation and the growing gap between the statements of the authorities and actual respect for human rights in Tunisia.

2. On 9 June 1997, for example, the Tunisian Ministry of Foreign Affairs published a "Summary of the principal measures taken for the promotion and protection of human rights in Tunisia". It affirms in particular that "the personal commitment of the Head of State to the promotion and protection of human rights and the consolidation of State institutions has been given concrete form with the creation of various juridical and administrative mechanisms and structures and the adoption of a series of reforms and measures aimed at strengthening the rule of law". FIDH, however, notes many infringements of human rights.

1. Freedom of movement

3. The deprivation of a passport is a method commonly used by the Tunisian authorities to exert pressure on political opponents, human rights defenders and any person likely to make statements abroad which are not in keeping with government policy. Mrs. Sihem Ben Sedrine, Mr. Mustafa Ben Jaafar and Mr. Moncef Marzouki, defenders of democracy, have thus been arbitrarily deprived of passports.

2. Freedom of the press

4. Tunisian journalists are subject to daily surveillance, censorship, harassment and threats. They cannot work effectively and there is no independent press or even newspapers critical of the regime of President Ben Ali. Indeed, the World Association of Newspapers barred the Tunisian Newspaper Association in June for failing to defend press freedom in Tunisia. That unprecedented decision was taken after a three-year inquiry. The compliant press regularly engages in odious campaigns of denigration, defamation and threats against dissenters. The Tunisians invited to participate last June in a meeting on human rights in Tunisia organized by the European Parliament were, for example, accused of "betraying their country" by dailies such as Le Temps and Al Hadath. The virulence of the attacks on Mr. Khemais Chammari, a laureate of the Human Rights Prize of the City of Nürnberg, are such as to jeopardize his return to Tunisia. Even more recently, Mr. Patrick Baudouin and Mr. Saadoun Zmerli, President and Vice-President of FIDH, respectively, have been violently attacked by the Tunisian press.

3. Freedom of association

5. The authorities have the right of life and death over associations. Although formally guaranteed by the Tunisian Constitution, freedom of association is undermined both at the juridical level and in administrative practice. In 1994, Mr. Sadok Chaabane, the Tunisian Minister of Justice, even declared that "the particularity of the political regime established by President Ben Ali is that the State itself represents civil society". Pursuant to recent circulars, the organization of workshops, seminars

and meetings necessitates prior submission of the list of participants and speakers, the agenda and the documents to be used or distributed.

6. In this context of absolute control, the Tunisian Human Rights League, the first human rights organization established in the Arab world, has been harassed persistently for several years. Recently, on 5 January 1998, Mr. Ali Bedoui, the brother of Mr. Marzouki, a former President of the Tunisian Human Rights League, was arrested and later sentenced to six months' imprisonment without suspension for "contempt of authority", although he had simply asked to see a warrant at the time of his arrest. Mr. Bedoui's arbitrary arrest seems to be a means of exerting pressure on Mr. Marzouki.

4. Freedom of opinion and expression

7. The Tunisian authorities today no longer tolerate criticism or contradiction. A bill approved by the Council of Ministers on 3 September 1997 and now before the National Assembly illustrates this paranoic tendency. Its purpose is to amend articles 61, 61 bis, 61 ter, 61 quater and 62 of the Penal Code, which govern "attacks on the security of the State". The current provisions already permit dangerously broad interpretations of the concept. The proposed amendments seek, moreover, to define as an "attack on the external security of the State" the activities of a "Tunisian who deliberately establishes contacts with the agents of any foreign State or foreign or international body in order to set forth or disseminate erroneous information which may prejudice the vital interests of Tunisia". If this bill is passed, such acts would be punishable by 5 to 12 years' imprisonment. Human rights defenders intending to appeal to the mechanisms for monitoring the international human rights instruments to which Tunisia has acceded are obviously the primary targets.

8. In addition, on the basis of a proposal by the Government, the Tunisian Parliament in October 1997 passed a law setting a penalty of three to five years' imprisonment without suspension for Tunisians who accept foreign distinctions or decorations without first obtaining the agreement of the Ministry of Foreign Affairs. Furthermore, most of the approximately 2,300 political prisoners are deprived of their liberty because of their proven or presumed sympathy with the Islamist movement. In recent years the circle of repression has widened in a very alarming manner.

5. Arbitrary arrests

9. The Tunisian regime is sadly renowned for the practice of arbitrary arrests. On 29 September 1997, for example, Mr. Khemaïs Ksila, Vice-President of the Tunisian Human Rights League, was arrested after announcing that he was beginning a hunger strike to draw attention to the harassment and abuse to which he had been subjected for more than two years because of his commitment to human rights. On that occasion, he issued a statement critical of the human rights situation in his country. He was charged with "dissemination of false news", "defamation against the established order" and "incitement to break the law", which undoubtedly cover crimes of opinion.

6. Right to a fair hearing

10. In many politically sensitive trials, the international standards guaranteeing the right to a fair hearing have been seriously flouted. The sentences pronounced in February and July 1996 against Mr. Moaada and Mr. Chammari, respectively, bear witness to this. The outcry against those decisions abroad and the pressure brought to bear on the Tunisian authorities have led to measures being taken for their conditional release, which are nevertheless revocable.

11. On 21 January 1998, when Mr. Khemais Ksila appeared before the Correctional Court of Tunis, he was not allowed to meet his lawyers, in violation of the right to counsel. Mr. Ksila was sentenced to three years' imprisonment without suspension on 11 February 1998 for a crime of opinion. Then, on 12 February 1998, the office of lawyer Radhia Nasraoui was burgled and ransacked. There is no doubt that her active participation in the defence of Mr. Ksila was the reason for those excesses. Lastly, Mrs. Radhia Nasraoui, currently on mission in Mali for Amnesty International, is considered to have absconded and was given notice to appear on 30 March by the examining magistrate.

7. Right to physical integrity

12. Torture is still an established practice in Tunisia. It is facilitated by frequent non-observance of the maximum period of police custody, failure to notify family members of detention measures, denial of access to a lawyer and the impossibility of using the services of a doctor of one's own choosing. Conditions of detention are so bad that Mr. Abdelmoumen Belanes began a hunger strike on 7 December 1997. The perpetrators of acts of torture furthermore enjoy de facto impunity, which encourages the phenomenon. However, on 17 November 1997, the Committee against Torture declared admissible communication No. 60/1997, relating to the case of Mr. Faisal Baraket. The Tunisian authorities will therefore have to provide explanations on that matter.

8. Right to respect of privacy

13. The Tunisian State has built up a disproportionate police force totalling some 120,000 persons for a population of 9,000,000. The omnipresence of the police allows for tight control of the territory and the use of methods that seriously interfere with privacy: constant surveillance, illegal telephone tapping to obtain information for later use in politically sensitive trials, interception of mail and faxes and searches of vehicles have become the daily lot of members of the political opposition and human rights defenders.

9. Freedom of action of international NGOs

14. Tunisia has become sadly renowned in recent years for growing interference with the freedom of action of international NGOs: organizations such as Amnesty International, Reporters Without Borders and Human Rights Watch have been subjected to surveillance and constraints rendering their fact-finding missions impossible. In May 1996, the President and Vice-President of FIDH were prohibited from entering Tunisian territory.

15. FIDH and the Tunisian Human Rights League call on the Tunisian authorities to respect the international instruments which they have ratified. They request the Commission on Human Rights to condemn the violations of human rights in Tunisia.